

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-11547-RWZ

LAUREN VARALLO

v.

TOWN OF NANTUCKET, MASSACHUSETTS, Police Department,
and
JAMES SAMSON

PRETRIAL ORDER
August 21, 2007

ZOBEL, D.J.

This matter having come before the court at a pretrial conference held pursuant to Rule 16, Fed. R. Civ. P., 28 U.S.C., and Bradley M. Henry, Esq., having appeared as counsel for plaintiff, and Douglas I. Louison, Esq., Regina M. Ryan, Esq., and Philip Slotnick, Esq., having appeared as counsel for defendants, the following action was taken:

1. TRIAL

Trial is scheduled to commence on August 27, 2007, at 9:00 a.m. and is estimated to last four days.

2. JURY

The court will impanel eight jurors. Counsel shall file any proposed questions to the jury on voir dire by August 22, 2007. Each side will have four peremptory challenges.

3. ISSUES

The parties agree that the only issues to be tried are:

A. With respect to the claims against the Town of Nantucket –

- I) whether the Town was negligent by assigning James Samson to protective custody duty for which Samson had not been trained and for which he was not qualified, all in violation of its own procedures;
- ii) whether the Town's negligence caused plaintiff's injuries;
- iii) the amount of damages. Plaintiff claims for
 - a) emotional distress;
 - b) the assault and battery; and
 - c) delay in completing school.

B. With respect to the claims against James Samson –

- I) whether he violated plaintiff's constitutional rights by sexually assaulting her;
- ii) whether he committed an assault and battery against plaintiff;
- iii) whether he intentionally inflicted emotional distress;
- iv) whether defendant's conduct caused plaintiff's injury; and
- v) the amount of damages.

4. EXHIBITS

Prior to the commencement of trial, counsel shall confer with each other concerning any exhibits each intends to offer and note any objections each may have to the exhibits of the other. All exhibits to which opposing counsel do not object shall be deemed to be admitted into evidence. Counsel shall mark these exhibits and

prepare a listing thereof, in duplicate. Objected to exhibits shall be marked for identification and listed separately.

5. WITNESSES

On or before August 22, 2007, each party shall file a list of witnesses who will testify at trial.

6. REQUESTS AND QUESTIONS

On the first day of trial, counsel shall file:

- (a) Requests for instructions; and
- (b) Proposed questions to the jury on special verdict.

____ August 21, 2007 _____
DATE

_____/s/Rya W. Zobel_____
RYA W. ZOBEL
UNITED STATES DISTRICT JUDGE